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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,595	12/18/2000	Eugene Fink	051672-5001	1673
28977	7590	04/20/2006	EXAMINER	
MORGAN, LEWIS & BOCKIUS LLP 1701 MARKET STREET PHILADELPHIA, PA 19103-2921			SUBRAMANIAN, NARAYANSWAMY	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/737,595	FINK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Narayanswamy Subramanian	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to applicants' communication filed on January 27, 2006. Amendments to claims 1 and 7, cancellation of claims 10 and 25 and addition of claims 26-27 have been entered. Claims 1, 4-7, 26 and 27 are pending in the application. Rejections made under 35 USC 112, second paragraph have been withdrawn in view of the amendments. New claims 26 and 27 are withdrawn from consideration as being drawn to non-elected inventions as discussed below. Applicant is respectfully requested to cancel the withdrawn non-elected claims 26 and 27 in response to this office action. Claims 1 and 4-7 have been examined. The response to amendment, rejections and response to arguments are stated below.

#### ***Response to Amendment***

2. Newly submitted claims 26 and 27 are directed to inventions that is independent or distinct from the invention originally claimed for the following reasons: The claims 1-7, 10 and 25 that were examined in the past office actions are drawn to a computer-implemented method to trade objects over a network, comprising: receiving a buy order from a user for an object having at least four dimensions associated with said object, wherein the buy order includes a filter specified by the user that creates an arbitrarily-shaped region within the at least four dimensions; receiving a message to modify said buy order while said buy order is pending, wherein said message is received from a party associated with the buy order; modifying said buy order in accordance with said message; encoding user-preferences associated with at least one of the buy order or one of a plurality of sell orders; searching in accordance with the filter specified by the user, an indexing tree that includes the plurality of sell orders for objects having said at least four dimensions in order to identify one or more sell orders that are within said arbitrarily-shaped region; applying

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characteristics of one or more sell orders identified in the searching step and the user preferences, to a quality function that outputs one or more quality values for the one or more sell orders identified in the searching step to the user; and attempting to match said first buy order with one or more sell orders identified in the searching step in accordance with said one or more quality values.

The new claim 26 is drawn to a computer-implemented method to trade objects over a network, comprising: receiving a sell order from a user for an object having at least four dimensions associated with said object, wherein the sell order includes a filter specified by the user that creates an arbitrarily-shaped region within the at least four dimensions; receiving a message to modify said sell order while said sell order is pending, wherein said message is received from a party associated with the sell order; modifying said sell order in accordance with said message; encoding user-preferences associated with at least one of the sell order or one of a plurality of buy orders; searching in accordance with the filter specified by the user, an indexing tree that includes the plurality of buy orders for objects having said at least four dimensions in order to identify one or more buy orders that are within said arbitrarily-shaped region; applying characteristics of one or more buy orders identified in the searching step and the user preferences, to a quality function that outputs one or more quality values for the one or more buy orders identified in the searching step to the user; and attempting to match said sell order with one or more buy orders identified in the searching step in accordance with said one or more quality values. The originally presented and currently amended claims 1-7 and 10 are directed to a buyer driven auction whereas new claim 26 is directed to a seller driven auction, which in the auction art is recognized as two different and diverse means of conducting an auction. Because these inventions are distinct for the reasons

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given above and the search required for claims 1 and 4-7 is different from that required for claim 26, restriction for examination purposes as indicated is proper.

Similarly the new claim 27 is drawn to a method computer-implemented method to trade objects over a network, comprising: receiving a first order from a user, wherein said first order comprises an order size and a plurality of buy sub-orders or a plurality of sell sub-orders, each of said sub-orders including a different description having at least four dimensions and associated with an object to be bought or sold; receiving a distinctive order message that the user wants to execute exactly one of said plurality of sub-orders, and then delete the other of said sub-orders; searching a computer memory for a second order that matches one of said sub-orders; and executing the sub-order that matches the second order and automatically deleting the other of said sub-orders that do not match said second order. The steps of the new claim 27 are clearly different from those of the claims that were already examined in earlier office actions. Claims 1-7 and 10 have a utility of searching in accordance with a filter specified by the user, an indexing tree that includes the plurality of sell orders for objects having said at least four dimensions in order to identify one or more sell orders that are within an arbitrarily-shaped region which is different from a utility of claim 27, which is executing a sub-order that matches a second order and automatically deleting the other of said sub-orders that do not match said second order. Hence the scope and utility of the two inventions are clearly different and distinct from each other. Because these inventions are distinct for the reasons given above and the search required for claims 1 and 4-7 is different from that required for claim 27, restriction for examination purposes as indicated is proper.

3. Since applicant has received an action on the merits for the originally presented

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invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 26 and 27 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Applicant is respectfully requested to cancel the withdrawn non-elected claims 26 and 27 in response to this office action.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sundaresan et al (US Patent 6,868,400 B1) in view of Walsh et al (US Patent 6,144,848) and further in view of Kuechler et al (US Patent 5,237,678).

Claim 1, Sundaresan teaches a computer-implemented method to trade objects over a network, comprising: receiving a buy order from a user for an object having at least four dimensions associated with said object (See Sundaresan Column 2 lines 60-63 and Column 7 lines 25-30); encoding user-preferences associated with at least one of the buy order or one of a plurality of sell orders (See Sundaresan Column 9 line 57 – Column 10 line 21); applying characteristics of one or more sell orders identified in the searching step and the user preferences, to a quality function that outputs one or more quality values for the one or more sell orders identified in the searching step to the user (See Sundaresan Column 6 lines 9-14); and attempting

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to match said first buy order with one or more sell orders identified in the searching step in accordance with said one or more quality values (See Sundaresan Column 6 line 60 – Column 7 line 40). The spread function is interpreted to include the quality function and the spread value is interpreted to include a quality value.

Sundaresan does not explicitly teach the steps wherein the buy order includes a filter specified by the user that creates an arbitrarily-shaped region within the at least four dimensions and searching for sell orders within that region; searching in accordance with the filter specified by the user, an indexing tree that includes the plurality of sell orders for objects having said at least four dimensions in order to identify one or more sell orders; receiving a message to modify said buy order while said buy order is pending, wherein said message is received from a party associated with the buy order and modifying said first order in accordance with said message.

Walsh teaches the steps of receiving a message to modify an order while said order is pending, wherein said message is received from a party associated with the order and modifying said order in accordance with said message (See Walsh Column 7 lines 55-65, Column 21 lines 10-19 and Column 28 lines 24-39).

Both Sundaresan and Walsh are concerned with the problem of facilitating trade between buyers and sellers. It would have been obvious to one with ordinary skill in the art at the time of invention modify Sundaresan to include steps taught by Walsh. The combination of the disclosures taken as a whole suggests that it would have helped a users make changes to their order as new information becomes available to them.

Sundaresan does not explicitly teach the step wherein the buy order includes a filter specified by the user that creates an arbitrarily-shaped region within the at least four dimensions

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and searching in accordance with the filter specified by the user, an indexing tree that includes the plurality of sell orders for objects having said at least four dimensions in order to identify one or more sell orders.

Kuechler teaches the step wherein the records include a filter specified by the user that creates an arbitrarily-shaped region within the at least four dimensions and searching for records that meet that criteria within that region (See Kuechler Column 1 lines 44-52, Column 24 line 63 – Column 25 line 5 and claim 1, the B-tree is interpreted to include the indexing tree and the records are interpreted to include buy and sell orders).

Both Sundaresan and Kuechler are concerned with matching records that meet certain criteria. It would have been obvious to one with ordinary skill in the art at the time of invention modify Sundaresan to include steps taught by Kuechler. The combination of the disclosures taken as a whole suggests that it would have made the search more efficient and faster.

Claims 4-6, Sundaresan teaches a method of claim 1 as discussed above including the step wherein said object is at least one of a group comprising goods and services (See Sundaresan abstract).

Sundaresan does not explicitly teach the steps wherein said object is a vehicle and wherein said at least four dimensions for said vehicle comprises at least four dimensions from a group of dimensions comprising manufacturer, model, year, mileage, color, and accessories.

Official notice is taken these steps are old and well known in the art. For instance a buyer interested in buying a vehicle would generally express the desired features in the vehicle that he/she is interested in buying. These features help a car buyer find the right car according to his/her needs and preferences.



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It would have been obvious to one of ordinary skill in the art at the time of invention to include these steps to the invention of Sundaresan. The combination of disclosures suggests taken as a whole suggests that it would have helped a car buyer find the right car according to his/her needs and preferences.

Claim 7, Walsh teaches the steps of receiving a message to execute said buy order and automatically executing said buy order in accordance with said message (See Walsh Column 21 lines 10-19).

### *Response to Arguments*

6. Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dr. N. Subramanian *NS*  
April 15, 2006



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